

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

TUSTIN UNIFIED SCHOOL DISTRICT,

OAH Case No. 2014120003 (Primary)

TUSTIN UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014120001 (Secondary)

ORDER GRANTING MOTION TO
CONSOLIDATE

On November 19, 2014, Parent on behalf of Student filed a due process hearing request in OAH case number 2014120003 (Student's Case), naming Tustin Unified School District. .

On November 25, 2014, District filed a due process hearing request in OAH case number 2014120001 (District's Case), naming Parent on behalf of Student.

On November 25, 2014, District filed a motion to consolidate Student's Case and District's Case. Student did not file a response to the motion.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Here, Student's Case and District's Case involve common questions of law and fact. Specifically, the issues in Student's Case are whether District denied Student a free appropriate public education by failing to: (i) respond to a parental request for a visual processing assessment in February 2012, (ii) assess Student in the area of visual processing prior to March 2014, and (iii) properly respond to Parents' request for an independent educational evaluation. The issue in District's Case is whether District's 2014 vision assessment and report were appropriate, such that Student is not entitled to an independent educational evaluation at public expense.

Consolidation furthers the interest of judicial economy because the same witnesses and evidence will be presented in both cases on the issue of Student's needs in the area of visual processing. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately.

ORDER

1. District's motion to consolidate is granted.
2. Student's Case, OAH case number 2014120003, is designated as the primary case and shall be the repository for all information regarding these consolidated matters.
3. All dates previously set in District's Case, OAH case number 2014120001, are vacated and continued to the dates set for Student's Case.
4. All dates currently set in Student's case are confirmed.
5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's Case.

DATE: December 4, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings